

April 12 2010

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

-1-

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Supreme Court Cause No. \_\_\_\_\_

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**FILED**

APR 12 2010

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CLERK OF THE SUPREME COURT  
STATE OF MONTANA

CAROL A. WALTERS, individually as the  
Mother to her deceased son, Timothy  
Dwayne Walters and as the Personal  
Representative of the Estate of Timothy  
Dwayne Walters,

Appellant,

vs.

FLATHEAD CONCRETE PRODUCTS, INC.,  
a Montana Corporation and its successors,  
and DOES 1-100,

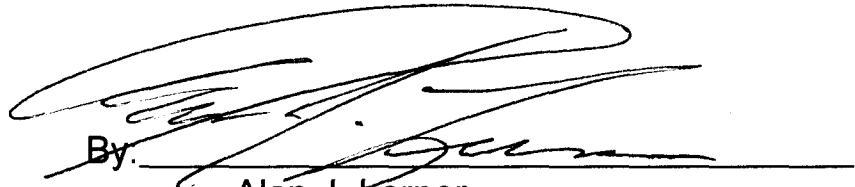
Respondent.

NOTICE OF  
CONSTITUTIONAL  
CHALLENGE

NOTICE is given that, pursuant to M. R. App. P. 27, the Appellant will challenge the constitutionality of Mont. Code Ann. § 39-71-413 and Mont. Code Ann. § 39-71-721(4).

Dated this 9<sup>th</sup> day of April, 2010.

LERNER LAW FIRM

By.   
Alan J. Lerner  
Co-Counsel for Appellant.

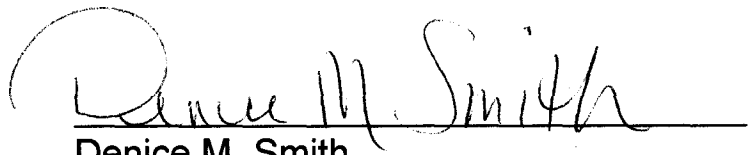
CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing NOTICE OF APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of the District Court, each attorney of record, each court reporter from whom a transcript will be ordered, and each party not represented by an attorney in the above-referenced District Court action, as follows:

Todd A. Hammer  
Angela K. Jacobs  
HAMMER, HEWITT & JACOBS, P.L.L.C.  
P.O. Box 7310  
Kalispell, MT 59904-0310

The Honorable Steve Bullock  
Montana Attorney General  
Dept. of Justice  
P.O. Box 201401  
Helena, MT 59620-1401

Dated this 9<sup>th</sup> day of April, 2010.

A handwritten signature in cursive script, reading "Denice M. Smith", written over a horizontal line.

Denice M. Smith  
128 Second Street East  
Kalispell, MT 59901  
Secretary, Lerner Law Firm